

ORIGINAL

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

Criminal Division

UNITED STATES OF AMERICA )  
 ) No. 2012 CF1 011127  
 v. ) The Hon. Robert E. Morin, J.  
 ) Sentencing: July 19, 2013  
 ERIC PAYNE, )  
 )  
 Defendant. )

Government's Memorandum In Aid Of Sentencing

The United States of America, by and through the United States Attorney for the District of Columbia, hereby submits this memorandum in aid of sentencing.

Background

Defendant Eric Payne faces sentencing for the offense of voluntary manslaughter, in connection with the death on June 19, 2011, of Charles Hicks, age 58. Mr. Hicks, father of two and stepfather of two, was stabbed and killed on Father's Day. The autopsy report showed he suffered a total of eight stab wounds, to his head, torso, abdomen and right thigh. Four of the stab wounds were over three inches deep, and two of those, both to his abdomen, were estimated to be as much as five inches deep. There were also three additional "cutting wounds" to Mr. Hicks's scalp, and "blunt impact injuries" to his face. While the defendant did not himself stab Mr. Hicks, he punched and kicked him as his accomplice, Terrance McNeal, was stabbing him.<sup>1</sup>

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<sup>1</sup>McNeal pled guilty to voluntary manslaughter while armed for his role in Mr. Hicks's death, and was sentenced earlier this

After the attack on Mr. Hicks, the defendant and McNeal fled the scene in a vehicle driven by the defendant.

Several months later, and after the McNeal had been arrested and charged with murdering Mr. Hicks, the defendant was interviewed by police. He initially denied assaulting the decedent, but then admitted his role.

The defendant was eventually arrested for his role in the homicide on June 27, 2012, and subsequently indicted for first degree murder while armed. On April 23, 2013, six days before trial and pursuant to a plea agreement, he pled guilty to voluntary manslaughter. Under the terms of the plea agreement, the government agreed not to seek a sentence greater than the low end of the applicable range under the D.C. Voluntary Sentencing Guidelines, and the defendant agreed not to seek a sentence inconsistent with the applicable range under the guidelines.

#### The Statutory Maximum and The Sentencing Guidelines

For the offense of voluntary manslaughter, the defendant faces a sentence of up to thirty years in prison, followed by a period of supervised release of up to five years. D.C. Code §§ 22-2105, 24-2403.01(b)(2)(A), (B). There is no mandatory minimum sentence. If the Court sentences the defendant to more than one

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year to 150 months in prison followed by five years of supervised release, in U.S. v. Terrence McNeal, 2011 CF1 015128.

year in prison, the Court must impose the maximum five-year supervised release period. Id. § 24-203.01(b)(2)(A).

The defendant, who has no prior convictions, faces a range under the sentencing guidelines of 48 to 120 months, with no probation option available. District of Columbia Sentencing and Criminal Code Revision Commission, Voluntary Sentencing Guidelines Manual App. A, at A-1 (June 18, 2012).

#### The Appropriate Sentence

For any felony offense the Court must impose a sentence that reflects the seriousness of the offense and the criminal history of the offender, provides for just punishment and affords adequate deterrence, and provides the offender with needed educational or vocational training, medical care, and other correctional treatment D.C. Code § 24-403.01.

Although both parties in this case are bound to allocute for precisely 48 months, it is, in fact, an appropriate sentence. Although the defendant was not the primary assailant, he contributed to Mr. Hicks's death and then was instrumental in helping that assailant, McNeal, get away. He went about his life for several months after it was widely known that Mr. Hicks had died and that McNeal had been charged, and when initially confronted by police about his role, he denied any responsibility.

Accordingly, the government submits the defendant should be sentenced to a sentence of 48 months, to be followed by five years of supervised release.

Respectfully submitted,

RONALD C. MACHEN, JR.  
UNITED STATES ATTORNEY

by:



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CERTIFICATE OF SERVICE

I, Michael C. Liebman, an Assistant U.S. Attorney, hereby certify that the foregoing was served on defendant Eric Payne by sending a true and correct pdf copy of the same to his lead counsel of record, Gregory Gardner, Esquire, by e-mail with pdf attachment to gardnerleagal@gmail.com, on July 17, 2013.



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Michael C. Liebman

cc: Kenneth McPherson, Esquire  
co-counsel for defendant Payne  
by e-mail with pdf attachment to kemcpherson@verzon.net